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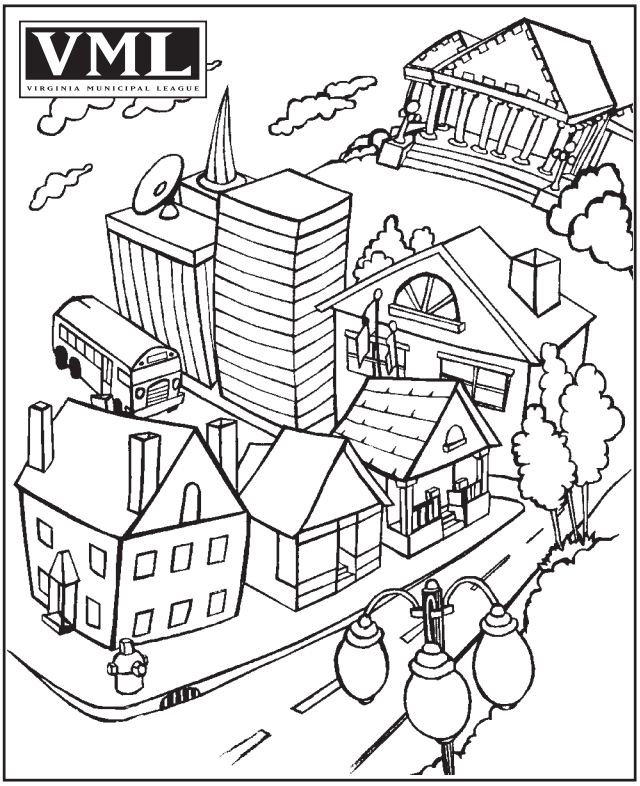

Legislative Report

Overview of 2004 regular and special session

2004 special session finally concludes with a budget

It took 115 extra days, but the General Assembly finally reached agreement on a budget for 2004-06 on May 7, signaling an end to a stalemate that threatened to leave the state without a budget. A coalition of legislators working with Gov. Mark R. Warner cobbled together the necessary votes on April 27 to enact HB 5018, which will generate more than $1.3 billion in additional revenue for the next biennium. On the same day, both houses agreed to SB 5005, which will cap annual car tax reimbursements at $950 million.

The budget is summarized in the next section of this report. Even without the state budget battle, the 2004 session was a contentious one, and local government issues often were at the heart of the fray. As usual, a number of measures introduced would strip local governments of authority in taxation, land use and personnel. Fortunately, local officials spoke up clearly and effectively — and most of the damaging pieces of legislation were defeated or carried over to the 2005 session.

VML legislative program

Tax restructuring and improved education funding were VML's top legislative priorities for 2004. The budget (summarized in the next section of this report) finally passed by the House and Senate makes significant inroads on increasing state funding for K-12 education. The legislature also enacted HB 1013, which establishes a grant program for students at-risk of educational failure. Del. Jim Dillard introduced the bill in response to the league's position supporting a state initiative for class size reduction and other programs for schools and students at greatest risk of failing to meet state educational standards.

Thanks to local officials who contacted legislators, VML succeeded in beating back attempts to cap meals and lodgings taxes, as well as to levy tipping fees and taxes on water. In the area of land use, local governments succeeded in gaining enhanced authority to deal with blight, but could not convince the legislature of the need for additional authority to enact impact fees or adequate public facilities ordinances.

What follows is an overview of the major pieces of legislation of interest to local governments (with the exception of the budget, summarized in the next section) taken up during the 2004 regular and special session.

Finance, taxation & fees

Revenue bill generates at least $1.3 billion; car tax capped in FY 2006

The special session saw the adoption of the 2004-06 budget, and the enactment of two significant revenue measures.

HB 5018 (Parrish), the Tax Reform Compromise Act of 2004, increases revenues in the next biennium by: reducing the state sales tax on food by 1.5 percent in three equal increments of 0.5 percent beginning in FY 2006 (saving $50.0 million from the bill as introduced); and increasing the sales and use tax on non-food items by one-half percent. One-half of the increase would be go to the state's General Fund ($377.7 million) while the remaining one-half would be dedicated to funding the Standards of Quality. The education component generates an additional $377.7 million for K-12 education in the next biennium. Additionally, the bill increases revenues by eliminating two common corporate tax loopholes (generating an additional $30.0 million); and increasing the recordation tax rate by a dime, thereby raising an additional $224.1 million for the biennium. Local governments are authorized to increase their local recordation tax rates by an additional 3 cents for a maximum local rate of no greater than 8 cents. The bill also generates revenue by amending the senior age tax preference (generating an additional $35.0 million); increasing the state cigarette tax to 20 cents per pack in FY 2005 and 30 cents in FY 2006 and dedicating the money to a health care trust fund largely to support Medicaid payments ($280.8 million); removing the sales tax exemptions on public service corporations ($77.7 million); retaining specific provisions to decrease the income tax by raising the personal exemptions ($70.0 million); and removing the phase-out of the estate tax (thereby saving the state $104 million in FY 2006).

The state claims a savings of approximately $225.0 million in the next biennium by capping state revenue dedicated to offset the local personal property tax on motor vehicles. SB 5005 (Bell) caps the state's car tax reimbursements beginning in FY 2006 and requires each locality to set a separate rate for all vehicles in order to provide tax relief for assessed values of less than or equal to $20,000. Just as today, localities will apply their local tangible personal property tax rates to values in excess of $20,000.

After FY 2005, each locality will receive a flat reoccurring appropriation for car tax reimbursements. These flat appropriations will translate to decreasing tax relief in fast growing localities. The state appropriation will equate to a

locality's percentage share of its CY 2005 appropriation. For example, if Locality X receives 2 percent of the state's 2005 appropriation, than it will receive 2 percent of the $950.0 million beginning in FY 2006, or $19.0 million, for each and every subsequent year.

The car tax legislation requires VML and VACo, in consultation with the governor and legislature, to develop legislation for 2005 that establishes an acceptable and reasonable state reimbursement schedule. The new law also converts the reimbursement from a calendar year basis to a fiscal year basis.

The effect of the July start date will be to cause a substantial interruption of cash flow for localities billing semiannually, and (depending on which fiscal year localities attribute the first billing — typically June), possible movement of revenue from FY 2006 to FY 2007. The work group described above will likely address this problem and offer changes that will be made to the 2006 appropriation schedule.

Local business taxes

VML and the Virginia Chamber of Commerce negotiated four business related tax initiatives throughout the fall. Three of the initiatives were enacted by the General Assembly, while local leaders from across the state prevented the passage of the fourth in a high-stakes legislative battle.

HB 293 authorizes tax officials to compromise and settle tax assessments and collections. The bill is modeled after a federal statute. HB 295 authorizes the state tax commissioner to issue written opinions, prior to an administrative appeal, for all local business taxes. Lastly, HB 298 prohibits localities from denying specific permits and licenses to applicants who are in appeal of a local tax. Del. Lee Ware was the patron of the three bills.

At the urging of local governments, the Senate Finance Committee defeated the chamber's high-profile legislation that would have repealed the requirement that a business pay a disputed tax upon seeking judicial relief. A business currently does not pay a disputed tax while in administrative appeal, but must do so upon exhausting its administrative petitions and going to court. The passage of HB 1122 (Lingamfelter) would have delayed tax payments for up to five or six years and tied-up millions of dollars in disputed taxes in northern Virginia alone. The Senate Finance Committee defeated the bill 6-8.

The House of Delegates defeated by a vote of 38-60 a significant business, occupational and license tax reform bill advanced by retail merchants. HB 461 (Drake) capped future revenues at tax year 2004 levels with an allowance for only modest new annual growth. The measure would have reduced total local revenues and put even more pressure upon real estate taxes.

Local tax authority

After several fits and starts, the House eventually defeated a measure limiting the ability of cities and towns to levy meals and transient occupancy taxes. HB 412 (Welch) instituted specific referendum requirements to enact meals taxes and specific legislative requirement to increase lodging taxes. VML's membership took the initiative and helped defeat the bill.

Another year has passed without the General Assembly granting counties taxing authority equal to that given cities and towns. HB 1349 (Hull) and SB 453 (Whipple) would have provided counties the same authority as municipalities to tax meals, lodging, cigarettes and admissions. The respective committees of finance defeated the measures.

Constitutional tax exemptions

Important legislation was adopted at the request of VML to clarify the process localities must follow to exempt from real or personal property taxes the property of certain charitable and other related organizations (HB 1076-Parrish). The amendments, while important, are technical in nature.

The legislation clarifies that the detailed procedures for exempting property apply only to exemptions by designation. It also clarifies that no exemptions by classification that were granted by the General Assembly prior to 2003 are automatically terminated.

The state constitution was amended in 2002 to allow localities the authority to determine tax exemptions from local property taxation. Legislation to implement the amendment was enacted in 2003, but contained some technical errors that are addressed in HB 1076. The bill has an emergency clause, so the bill becomes effective upon signature of the governor.

Telecommunications

Passage of HB 1174 (Bryant) sets the stage for sweeping and modern reforms in telecommunication taxation. The changes will take effect if the industry, local governments and presumably the legislature agree to a revenue neutral distribution formula. The initiative requires legislation in the 2005 session to ratify any changes. A new uniform telecommunications tax rate would be 4.5 percent and would replace current local taxes, including consumer utility and E-911. The respective E-911 fees would not be greater than 75 cents per line (landline) and wireless phone. The new rate of 4.5 percent would apply to the respective bill of each of the proposed taxable services. The proposed services include local exchange (local telephone calls), inter-exchange (a proposed new tax applied to long distance calls), wireless (a proposed new tax) and paging (a proposed new tax).

Between now and 2005, the auditor of public accounts will verify whether the proposal is revenue neutral to local

governments. The industry and local governments will return to the negotiating table upon receiving the APA's report. HB 1174 is the result of two years of negotiating among the industry, local governments and the legislature. The goal is to develop a modern tax system that captures technologies growing in popularity, including wireless, so that local governments will collect stable revenues from an industry that is constantly evolving.

A bill to exempt a new telecommunications technology from taxation was continued until 2005. SB 673 (Cuccinelli) would exclude Voice-over-Internet Protocol (VoIP) from regulation by the State Corporation Commission, thus exempting VOIP from state and local taxes on telecommunications providers. The Congress and FCC may exclude VoIP from taxation. Any such determination will undercut state and local telecommunication tax laws because the industry will subsequently convert their services to this protocol.

Real estate caps

With little fanfare and debate, the House and Senate Finance committees rejected measures capping real estate tax rates. Most legislators understood that capping real estate tax rates would only put pressure on the state to pay more of the cost of providing state-mandated services at the local level. Local governments, however, must become accustomed to reacting to these proposals, because they are likely to be introduced in future session. For example, a constitutional amendment to cap real estate taxes was carried over to the next session (as were all newly-introduced constitutional amendments). SJR 85 (Hanger) would amend the constitution to require that real property shall be assessed for taxation purposes at no more than 102 percent of the assessed value of such property in the preceding tax year. Fair market value assessments would stand if real property were sold, transferred, improved, or rezoned at the owner's request.

Fines & fees

HB 253 (McQuigg) allows a locality to impose a prepayable $200 fine plus an amount per mile-per-hour in excess of posted speed limits for a local speeding offense in residential areas. The fee is not subject to suspension unless the defendant performs 20 hours of community service. Localities, especially Northern Virginia and Virginia Beach, have seen an increase in residential speeding and the $200 fine was often suspended if other speeding fees were charged.

HB 504 (Keister) and SB 214 (Edwards) provide that the fee of up to $5 assessed by counties and cities in criminal and traffic cases may be used, at the sheriff's request, for equipment and other personal property used for courtroom security. Currently, proceeds from the fee can only be used for courtroom security personnel.

HB 534 (Stump) and SB 72 (Puckett) gives civil immunity for public officials and private volunteers participating in roadway or waterway litter pick up programs for probationers. Public officials covered include probation officers; court personnel; county, city and town personnel; and any other public official. The immunity protects the specified persons from liability for injury to the persons on probation or community service, in the absence of willful misconduct.

HB 303 (Fralin) increases the costs from $100 to $250 that a locality may charge in cases involving driving under the influence, reckless driving or a few other traffic incidents.

Conflict of Interests & Freedom of Information

New financial disclosure requirement rejected; distribution of COI Act required

An attempt to broaden a law applicable only to Fairfax County to all localities was dropped in the face of opposition from both local government groups and the real estate development industry. The Fairfax law requires very detailed disclosure by members of the governing body, planning commission and board of zoning appeals, and by applicants, attorneys, engineers and others associated with any project requiring zoning actions. SB 228 (Cuccinelli) and HB 988 (Hugo), requested by Attorney General Jerry Kilgore, would have extended this burdensome requirement to all localities. The bills were adopted with only a change in the disclosure requirement for Fairfax County.

Two adopted bills, SB 226 (Bolling) and HB 467 (Drake), will require the administrators of public bodies (council clerks) to furnish a copy of the State and Local Government Conflict of Interests Act to any new official required to make annual disclosures under that act within two weeks after the official's election or appointment. The new officials are required to read the Conflicts Act and become familiar with its requirements. These provisions are similar to current requirements for the Freedom of Information Act.

Major FOIA changes defeated

None of the three most controversial proposed changes to the Freedom of Information Act was enacted.

As introduced, HB 1357 (Griffith) would have exempted the General Assembly completely from FOIA's open meeting requirements and authorized the Joint Rules Committee to determine access to meetings. The adopted substitute keeps floor sessions, standing committee and subcommittee meetings, conference committees and legislative study commissions under FOIA, specifically exempts political party caucuses, and allows Joint Rules to establish access rules for other informal gatherings of legislators.

The House killed HB 389 (Lingamfelter), backed by Attorney General Jerry Kilgore, which would have made FOIA apply to newly elected officials in the period

between their election and the start of their terms.

Another proposal would have required all closed meetings to be recorded on audio or video tape so that a court could later verify that the closed meeting was proper. After strong opposition from VML and others, this provision was dropped from HB 358 (Suit).

FOIA exemptions reorganized; created

SB 352 (Houck) makes no substantive changes to FOIA, but reorganizes the records exemptions into seven new, shorter sections grouped by general purpose. This should make the exemptions easier to find and save on printing costs for future legislation adding new exemptions. The exemptions are all in Va. Code § 2.2-3705; there are more than 90 exemptions (including those passed this session).

New exemptions from disclosure under FOIA include:

• Records of investigations conducted by internal auditors appointed by local governing bodies or school boards — SB 562 (Lambert).

• Unlisted telephone numbers furnished by telephone companies to local government 911 or E-911 systems — HB 1364 (S.C. Jones).

• Information about persons under age 18 held by state or local parks and recreation departments — HB 160 (Sherwood).

• Names, addresses and contact information for persons receiving transportation services from local agencies under the Americans with Disabilities Act or Temporary Assistance to Needy Families — SB 149 (Deeds).

• Telephone numbers (but not billing records) of cellular phones or pagers furnished by law enforcement agencies for their officers to use while on duty — SB 297 (O'Brien) and HB 538 (May).

• Names of, and contact information for, individual participants in local citizen emergency response teams — HB 347 (Sherwood).

• Working papers, memoranda and other records about prospective new or newly expanded businesses, prepared by local or regional economic development entities, clarifying that such entities have the same exemption as the state Economic Development Partnership — SB 394 (Norment).

Land use

Billboards

Nonconforming billboard regulation changes under SB 58 (Martin). If the nonconforming billboard is within sight of a federal highway, including interstates and primary highways, the owner will have to apply to VDOT for a permit to repair or rebuild. The next step is for the owner to show the VDOT permit to the building official. As long as cost of the work to be done is less than 50 percent of the replacement cost, the work may be done. If the building official disagrees with the cost assessment, he may appeal to VDOT; otherwise, the owner may proceed with the work. This version of the bill is a compromise worked out with the patron by VML. The original version of the bill used a 60 percent rule; had exceptions so that if vandals or an act of God destroyed a billboard it could be completely replaced; and would have included on-site freestanding signs.

Inoperative motor vehicles

Inoperative motor vehicles (IOV) received a lot of attention this year. SB 204 (Quayle), the most significant of the junk vehicle bills, creates an exception to the general rule that a locality can tow away an IOV that is not kept fully enclosed in a building. Under the compromise worked out with the patron by VML, if the vehicle owner is "actively restoring or repairing" the IOV, the vehicle plus a support IOV may remain on the property as long as they are screened from view.

Screened from view has a new definition: the vehicle cannot be seen from ground level at the property edge. The original version of the bill simply did away with local government authority to require vehicles to be kept in a building. SB 529 (Hanger) gives localities authority to use any one or more of the statutory definitions for what constitute an IOV.

Zoning

HB 714 (Oder) will require additional steps when taking any significant zoning actions near a military base, except local National Guard armories. It requires notice to the commandant or other base commander for comments as a part of the notice procedure. It also suggests that the comprehensive plan should incorporate provisions related to the base and requires the zoning ordinance to protect the bases from encroachment.

HB 679 (Rapp) puts teeth into local government authority to remove nonconforming signs. Last year a law was passed to allow localities to require the removal of abandoned nonconforming signs, but no enforcement powers were included. HB 679 allows the locality to remove the sign, after notice, and to charge the owner for the costs of removal.

HB 819 (Drake) requires localities to send first class letters to anyone affected by a text amendment that reduces residential zoning, with a few exceptions. This expands last year's bill that applied only to amendments that affected more than 25 parcels.

SB 76 (Potts) makes it clear that localities may not prohibit political campaign signs located on private property. Localities retain the right to regulate such signs in the same manner that they regulate temporary non-political signs. The federal case law on First Amendment rights related to campaign signs remains the more important limitations to consider when adopting sign regulations that affect political signs.

Local governments were successful in defeating HB 996 (Hugo), which would have allowed any association, such as the Sierra Club or the Virginia Homebuilders' Association, to be a plaintiff in a suit against a locality over a zoning decision under certain circumstances. If an association member qualified as an aggrieved person, the association also would qualify.

Rental inspection agreement compromise passed; redevelopment bills are not

Since the 2003 session VML staff has worked with interested localities, real estate interests, and Del. Thelma Drake to improve upon last year's very controversial legislation limiting local programs for the inspection of residential rental property. Although the resulting bill, HB 828 (Drake), is not perfect, staff and most localities concluded that it was much-improved over the original bill, and that it sets out a workable method to carry out the programs. The General Assembly must have agreed, as the House adopted the bill on a 91-8 vote, and the Senate with a unanimous vote.

Under the final version of HB 828, a locality may designate rental inspection districts based on a finding of need to protect the public health and safety, substantiated by the age, number and condition of rental units in the district. The districts are no longer tied to conservation or redevelopment districts. Once the locality establishes one or more districts, it may perform an initial set of inspections, and then carry out biennial inspections. If a rental unit complex gets a clean bill of health, the units in that complex are exempt for five years, unless violations are discovered in the exemption period. In that case, new rental inspections may be carried out and the exemption is lost. The inspections are no longer tied to a change of tenancy, which is the status of the current law. Further, instead of registration, owners only need identify the units they own and provide contact information for the owner and property manager.

Two of Drake's other bills relating to redevelopment projects were not adopted. The delegate struck HB 821 and HB 830, which would have authorized local governments to carry out redevelopment and conservation projects in appropriately designated areas, either on their own or through a housing and redevelopment authority. The two bills were tied to the original version of HB 828, but when HB 828 was changed dramatically, the two companion bills were unnecessary.

Blight-fighting legislation

Local authority to deal with blight took a giant step forward with the passage of HB 1456 (Jones, D.). The legislation, part of the governor's legislative package, allows a locality to pursue penalties if the owner of a shell corporation fails to pay real estate taxes or the costs attached to the land for clearing a nuisance or removing a derelict building. The bill makes the officer, or employee of a corporation or other entity, responsible for a penalty if the officer or employee: 1. knows the debt is due; 2. has the responsibility to pay it for the legal owner; and 3. willfully fails to pay it. The penalty is equal to the tax or assessment. The bill also expands the tax lien provisions in state law regarding clearing nuisances. The changes in the tax lien provisions also are included in HB 438 (Suit), which pertains to municipal corporations assessing land for cleaning up nuisances.

HB 1398 (Bland) requires the Secretary of Commerce to file a report with the governor at the beginning of the governor's term that identifies the health of Virginia's cities and prescribes plans to improve the health. In addition, the bill creates a cabinet-level commission to assist in preparation of the report. This bill also was part of the governor's legislative package.

HB 825 (Drake) authorizes the Virginia Housing Development Authority to participate in funding mixed use and mixed income projects, using federal and state funds. This important step recognizes that healthy urban redevelopment includes a mixing of uses and residential types, replacing the less successful large, single-income projects that may lead to further blight problems. In addition, the General Assembly rejected a bill to proscribe VHDA loans to persons living together without the bonds of matrimony (HB 187-Black). Last year, VHDA had enacted new rules to allow loans to unmarried people, and the bill was filed to countermand the new rules. Del. Terri Suit successfully argued on the floor of the House that the bill would make it more difficult for women to move off welfare, because they would not be able to join forces with relatives or women in similar situations obtain VHDA loans.

Adequate public facilities/impact fees

A number of adequate public facilities or impact fee bills were filed, although none survived the session. Many of the bills were referred to the Growth Commission, which was continued for another year under HJR 170 (Hall). Bills that were introduced dealing with adequate public facilities ordinances included HB 68, HB 306, HB 307, HB 729, HB 747 and HB 749 (all introduced by Del. Robert Marshall) and HB 893 (Cole). Impact fee bills included HB 752 (May); SB 393 (Quayle), which pertained to educational facilities; SB 123 (Watkins), which pertained to Chesterfield County; and SB 534 (Stosch), which pertained to Henrico County.

Eminent domain

A variety of harmful bills dealing with eminent domain authority were killed or carried over. SB 301 (O'Brien) would have required a government agency that condemns land to resell it to the owner if the construction on the project for which it was acquired has not been started within 10 years of the condemnation.

HB 822 (Drake) would have defined public use for

condemnation to mean only use by the public at large. The bill would the conveying of any condemned land to a private entity. The Virginia Housing Study Commission, which Drake chairs, is likely to take up this issue this bill prior to the 2005 session.

HB 826 (Drake) would have put limits on the appraised values a condemning agency could offer as evidence, and would have required the agency to pay the appraisers and other expert fees of the landowner if the award in the condemnation suit exceeded the original offer by 15 percent or more.

HB 832 (Drake) would have allowed a landowner in a land condemnation case who was served by publication in the newspaper to reopen the case for a period of 24 months to argue the value of the land.

An eminent domain bill that was passed is HB 820 (Drake), which applies to a very infrequent set of circumstances regarding downzoning of property in a conservation or rehabilitation district. The bill requires that the pre-downzoning value of the land be used when the locality condemns land in the district under these circumstances: 1) if the land was downzoned after the district was created or was downzoned within 5 years before the district's creation, and 2) if the original owner continues to own the land.

Personnel

Problem personnel measures carried over or amended

Two bills dealing with enforcement personnel, both opposed by VML, were carried over to the 2005 Session. HB 616 (Carrico) would have amended the so-called "law enforcement officers' Bill of Rights" statute to allow officers to consult legal counsel before answering any questions from management that could lead to disciplinary action. HB 435 (Suit) would have exceeded federal wage-and-hour requirements by requiring law enforcement officers' overtime pay to be based on hours in paid status during the applicable pay period, rather than on hours actually worked. This unfunded mandate, like a similar one imposed for firefighters in 2001, would have a very large fiscal impact on many local governments.

SB 201 (Reynolds) makes a number of changes to the statutory state employee grievance procedure. That procedure applies by default to any local government or local agency that hasn't adopted its own grievance procedure. VML staff was successful in getting an amendment exempting those localities and local agencies from the most costly new provision in SB 201, which requires payment of attorney fees for successful grievants.

Workers' Compensation bills reach different results

The 2004 General Assembly session was inundated with workers' compensation bills, but fortunately most of those harmful to localities were not successful. SB 56 (Miller, Y. B.) would have allowed employees to choose their own physician when injured on the job. Currently employees can choose from a designated panel of physicians. The National Council on Compensation Insurance estimated this bill would have cost Virginia employers between $25.6 million and $41.1 million per year. The bill died in committee in the Senate.

SB 582 (Colgan) would have created a heart/lung and cancer presumption for emergency personnel under the Workers' Compensation Act. This class of employee currently enjoys the infectious disease presumption but not the heart/lung presumption. At the urging of VML staff, the patron decided to hold the bill over until next year. There is no evidence that emergency personnel are at a greater risk for either heart disease or cancer than the general public.

HB 957 (Barlow) would have provided workers' compensation benefits to fire and emergency personnel door to door (that is, from home to work and back). Currently, with few exceptions such as a provided vehicle, coverage does not begin until the employee arrives at work. The patron pulled this bill until next year at the urging of VML staff.

Several workers compensation bills were enacted. HB 547 (Puckett) provides workers' compensation benefits (health benefits only) to Americorp Volunteers. At the urging of VML staff and the state Department of Social Services, the patron added an amendment to the bill that puts this risk under the state workers' compensation program. However, if localities choose to use these volunteers, they will be responsible for fifteen percent of the cost of this coverage.

SB 558 (Norment) and HB 864 (Byron) are companion bills that will make it easier for workers' compensation carriers to be reimbursed by third party tortfeasors. (A tortfeasor is a person who harms another in violation of one of the duties people owe one another in society, such as the duty to not run over another person with a car).

HB 1267 (Byron) adds local electoral board members to their local government's workers' compensation coverage. Currently the law is unclear as to whether these board members are state or local government employees.

Virginia Local Sickness & Disability Program carried over

HB 491 (Tata) requires the Virginia Retirement System to offer a local sickness and disability program for local employees similar to the program that exists for state employees. The program would be optional for localities to participate in. A work group that included members of VML, the Virginia Association of Counties and VRS developed the legislation. The bill was carried over.

Living wage authority

Two separate Senate committees protected specific local ordinances – as well as the authority of localities to adopt such ordinances — providing that government procured contractors cannot pay their employees less than a living wage.

HB 827 (Drake) allows any locality to award a homeownership grant, with a maximum value of $5,000, to employees to help them afford to live in the locality. State funds may not be used for this purpose.

Workforce development consolidation killed

HB 526 (Hogan) would have established a state Department of Workforce Development by consolidating all workforce development programs in that one agency and by transferring existing state staff and funding to the new department. These programs currently are housed in various state agencies, and the proposed consolidation threatened funding used by local departments of social services.

Changes to Line of Duty Act carried over

SB 284 (Wampler) would have made Line of Duty benefits retroactive, and would have required local governments to pay for benefits extended to persons who had been local employees. The bill was carried over, and referred to the HJR 34 study committee on retirement issues.

General government

Organizational meetings

HB 931 (Marshall, D.) allows municipalities to continue holding organizational meetings of council pursuant to their charters or local codes. The legislation, requested by VML, addresses an inadvertent side effect of the 1997 recodification of Title 15.1 as Title 15.2. In the recodification, an existing general law provision that required counties to hold annual organizational meetings was extended to require the same of cities and towns.

Procurement measures adopted; Virginia and U.S. preference bills not approved

Four adopted bills — SB 95 (Devolites), SB 302 (O'Brien), HB 470 (Nixon) and HB 749 (R. Marshall) — will permit localities to make cooperative purchasing arrangements with the General Services Administration or other federal agencies. SB 95 and HB 470 also allow localities to purchase items, except for stone aggregate and other bulk road-building materials, through online public auctions.

SB 598 (Williams) and HB 1145 (McDonnell) give state agencies and localities clear authority to implement remedial programs for procurement from woman- and minority-owned businesses when there is a rational basis for doing so, or there is a documented, statistically significant disparity between the availability and use of such businesses. Any analysis used as a basis for such a program must meet federal court standards.

Under SB 525 (Hanger), the limit on construction or renovation projects that may be contracted through competitive negotiation rather than competitive procurement is raised from $500,000 to $1 million. The bill also provides that projects under this limit are exempt from any requirement for approval by the state Design-Build/ Construction Management Review Board.

SB 151 (Deeds) and HB 243 (Nutter) would have given a preference to U.S.-based companies in state and local public procurement transactions for goods and nonprofessional services, as long as their price did not exceed that of a foreign-based bidder by more than 20 percent. Both were carried over to the 2005 session. The same fate befell HB 315 (Cosgrove), which would grant a similar 3 percent preference to Virginia-based bidders on contracts over $500,000. VML staff spoke against such preferences, on the grounds that they are difficult to administer, increase the cost of necessary goods and services, and may provoke retaliatory measures from other states and nations.

Electric & telecommunications deregulation changes enacted

The current cap on rates that Dominion Virginia Power can charge consumers is extended through 2010 under SB 651 (Norment). The legislation also freezes Virginia Power's fuel factor until July 1, 2007 (using rates in effect January 1, 2004), and allows other utilities to seek a rate increase. The legislation improves the climate for municipal aggregation, in which a political subdivision can negotiate for electric rates on behalf of a group of electric consumers in its jurisdiction. The legislation allows municipalities and other political subdivisions to aggregate the electric energy load of residential, commercial, and industrial retail customers within its boundaries on either an opt-in or opt-out basis; the requirement presently in statue that requires an opt-in process is eliminated. The legislation also eliminates the requirement that municipalities may not earn a profit from the aggregation.

Identical House and Senate bills were introduced to deregulate Virginia's telecommunications industry. The introduced legislation was drafted by Verizon and was intended to get the industry out-from-under the control of the State Corporation Commission, including for purposes of rate settings. The House measure, HB 938 (Kilgore), was amended to state that the SCC shall "reduce or eliminate any requirement to price retail and wholesale products and services at levels that do not permit providers of local exchange telephone services to recover their costs of those products and services." The Senate measure, SB 383 (Norment), was continued until 2005. The issue of deregulation likely will be before the General Assembly in 2005.

Distribution of information on local referenda

Local government authority to distribute information on local referenda is clarified under HB 373 (Lingamfelter) and SB 359 (Colgan). The bills authorize local governments to distribute explanatory, neutral explanations of local referenda through the Internet and other means, without the existing 500-word limit. The bills continue to require localities to distribute explanatory, neutral explanations at the polls, but these must be limited to 500 words in length.

Campaign contributions disclosures

City and town council members / mayors and county supervisors / chairs have to report within five business days of receipt any single contribution, or aggregate contributions from a single donor, of more than $500 received in non-election years under SB 470 (Ticer). The report has to include (i) the name and address of the contributor, as well as and the amount of the contribution; (ii) for individual contributors, the contributor's occupation, the name of his employer or principal business, and the locality where employed or where his business is located; and (iii) for other than individual contributors, the place of business and principal business activity of the contributor.

ACIR abolished

In an excess of zeal, the General Assembly approved SB 10 (Ruff) and incorporated HB 252 (McQuigg) into adopted HB 203 (Athey), all of which abolished the Advisory Commission on Intergovernmental Relations. VML did not feel the ACIR had been a particularly effective vehicle for addressing local concerns with state government, and did not oppose the abolition.

Other bills killed/carried over

SB 631 (Quayle) would have required localities to conduct a public hearing before removing any monument or memorial or before renaming any public street, bridge, park, preserve or structure that is named for an historic figure or event. The bill did not prevent relocating or removing a monument or memorial to perform necessary construction or maintenance on streets or highways or to address an imminent public safety concern. This bill was a much more acceptable version of legislation opposed by VML in previous years that would have severely restricted localities' ability to move historical monuments and rename public facilities. The bill was eventually striken from the docket. HB 1421 (Stump) would have eliminated the six-month notice requirement for tort claims against cities and towns currently found in Va. Code£ 8.01-222. This bill was carried over to the next session.

SB 693 (Rerras) would have codified the authority of localities to impose a curfew when the governor declares an emergency. This bill was carried over to the next session.

Two bills — HB 992 (Hugo) and SB 243 (Cuccinelli) — requiring political party identification for local elections died in committee.

Environment

Legislation to tax local services unsuccessful

VML and its allies were able to beat back attempts by legislators to fund state environmental programs by taxing local services. VML opposed both HB 1418 (Pollard) and HB 1462 (Dillard). HB 1418 would have imposed a $1 per month fee on the owners of improved real property valued at more than $60,000.

An additional $1 per month fee would have been assessed on property owners served by a wastewater treatment facility. The locality would have collected the fees and remitted the money to the State Treasurer for deposit in the Water Quality Improvement Fund. HB 1462 would have established a $5 per ton solid waste disposal fee to be collected by localities.

In addition, SB 527 (Hanger) would have levied a $2 per connection water tax to help finance natural resource programs. The money would have been collected by localities and remitted to the state. At the request of local governments, the patron deleted the water tax provisions from SB 527. HB 1418 and HB 1462 were carried over to the 2005 session.

Other environmental bills fail

Legislators killed a bill that would have prohibited construction of a landfill within a half-mile radius of areas zoned as residential. VML opposed HB 1168 (Frederick) because it hindered local land-use authority.

The General Assembly also failed to endorse legislation — SB 639 (Whipple) – that would have required the State Water Control Board to adopt numeric pollutant loading allocations for nitrogen and phosphorous for each of the major Chesapeake Bay tributaries. The bill would have circumvented the Department of Environmental Quality's current initiative to establish numeric limits on nitrogen, phosphorous and sediments. VML is a participant in that regulatory process.

DEQ raises permit fees; undertakes efficiency study

Permit fees for landfills, water and wastewater will increase on July 1 as a result of a study authorized by the 2002 General Assembly. The fees will generate about $6 million annually to meet the costs of Virginia's water and waste permit programs. The higher fees are required to offset budget cuts. Without additional funding, whether from state general funds or higher fees, DEQ proposed to return the permit program to the U.S. Environmental Protection Agency.

SB 365 (Watkins) and HB 1350 (Orrock) authorize DEQ to adopt a schedule of annual fees to support Virginia's waste and water permit programs. In addition to the permit fee charged for solid waste facilities, DEQ will charge annual fees based on tonnage for facilities such as landfills and incinerators. The legislation also establishes the maximum amounts DEQ can charge for processing various types of water permits and the maximum amounts it can assess as a permit maintenance fee on each permit type.

Owners of municipal wastewater facilities will continue to pay fees that are slightly lower than similar fees for industrial plants. VML supports lower fees for publicly owned facilities because the municipal permit program benefits the public. The legislation also requires reductions in annual fees for water permits based on availability of general funds, an important provision also supported by the league, which maintains that state general funds should finance the majority of the environmental permits program. No fees will be charged for minor permit modifications or amendments. Finally, DEQ will evaluate and implement measures to improve the long-term effectiveness and efficiency of its programs.

Local governments to take on stormwater programs

Local governments were given more authority and responsibility for stormwater management during the 2004 session. HB 1177 (Bryant) consolidates the management of Virginia's stormwater regulatory programs under the Department of Conservation and Recreation. The bill also authorizes local governments to implement stormwater management programs in conjunction with existing (and currently required) erosion and sediment control programs.

Localities already addressing stormwater through their federal Clean Water Act program or through the Chesapeake Bay Preservation Act are required to begin handling the construction-permitting program by July 2006. In the absence of local delegation, DCR will issue the stormwater permit in that jurisdiction. Local governments can adopt more stringent stormwater ordinances than those included in the state program. Existing local programs are grandfathered.

To fund the program, DCR will develop a statewide uniform permit fee program, the majority of which (70 percent) is to be retained by localities that administer the program. In the meantime, HB 1350 / SB 365 (summarized above) set the permit fees at $300-$500.

Water supply regulations delayed

Under legislation passed in 2003, the State Water Control Board was prohibited from completing the water supply plan regulations prior to July 1, 2004. Because a technical advisory committee has not finished drafting the regulations, SB 110 (Williams) delays the date on which the regulations can become effective until after July 1, 2005. Local government representatives are part of the technical advisory committee.

State natural resources funding still a concern

Finding dedicated state revenues for land and water protection remained an elusive goal in the 2004 session. Along with state and national environmental groups, VML supported legislation that would have established a stable source of long-term state funding for natural resources. The proposals, part of Gov. Mark R. Warner's legislative program, were not approved. HB 693 (Morgan) and SB 569 (Deeds/Hanger) would have dedicated approximately $15.1 million in existing state recordation fees to a new Natural and Historic Resources Fund. The money would have gone to the Water Quality Improvement Fund and the Virginia Land Conservation Fund.

Public Safety

Jails and juvenile corrections

The General Assembly enacted two bills designed to encourage the use of federal funds to pay for prison and jail costs for undocumented aliens. The first bill is aimed at state prison and juvenile justice facilities. Under HB 234 (Cox), the director of the Department of Juvenile Justice is authorized to work cooperatively with the Department of Corrections to develop and submit requests for compensation for costs associated with incarcerating undocumented aliens from the State Criminal Alien Assistance Program under the U.S. Department of Justice.

The second bill is aimed at jails. HB 235 (Cox) requires jails to collect information on the country of birth and country of citizenship for all inmates, and requires the State Compensation Board to maintain the information through the Local Inmate Data System. Further, the Compensation Board must annually encourage all jail facilities to request compensation for costs associated with incarcerating undocumented aliens from the State Criminal Alien Assistance Program (SCAAP) of the U.S. Department of Justice; provide information to all jail facilities on the eligibility requirements to obtain these funds; and monitor local jail participation in the SCAAP program. Some local and regional jails already apply for and receive these funds.

Legislation that would have been expensive for local jails was carried over. SB 238 (Norment) would have required that the transfer of a felon must occur within 30 days from the date the judge enters the final order. Currently, the 30-day clock starts ticking at the date of judgment (as opposed to the date the judge enters the final order). The bill would have been expensive to localities because judges may have taken any amount of time to enter the order, and localities therefore would have been responsible for picking up the costs for those state responsible prisoners for a longer period of time.

Emergency management operations

HB 214 (Athey) clarifies that local or regional law-enforcement officials control the initial decision to institute a local or regional Amber Alert warning. The local or regional law-enforcement officials, however, must provide information regarding the abducted child to the State Police prior to issuing the alert. HB 873 (Van Landingham) provides that all localities with a population greater than 50,000 shall establish an alert and warning plan for the dissemination of adequate and timely warning to the public in the event of an emergency or threatened disaster.

Gun bills

Although several guns bill of note were enacted, they did not face stiff opposition from local governments. After years of "fighting-the-good-fight," VML has faced reality: the legislature will not rest until the last bastion of local discretion regarding the regulation of weapons is tumbled. HB 484 (Cole) and 530 (Hogan) repeal pre-1987 local authorities governing the purchase and regulation of firearms. Assuming that the governor signs the bills into law, localities will retain the authority to simply and only regulate the ability of their personnel to carry guns.

On a positive note, the legislature adopted legislation prohibiting the carrying of firearms in airports. Past legislative changes had repealed the authority of airports to adopt specific regulations regarding the carrying of firearms within their terminals. SB 660 (Stolle) restores specific and previously held regulatory authority.

HB 1303 (Lingamfelter) establishes new authorities and rights designed to regulate the use of pneumatic weapons (including BB guns). Localities retain the authority to regulate usage.

HB 1482 (McDonnell) would have limited the authority of local governments to enforce the State Fire Code relating to the display and storage of smokeless powder in commercial settings. It would have removed restrictions on the quantities and protective storage requirements of smokeless powder in commercial buildings such as Wal-Mart, K-Mart, or gun shows. HB 1482 also would have eliminated record keeping requirements for the sale of smokeless powder; allowed for the sale or gift of smokeless powders and small arms ammunition to juveniles; and removed notification and signage requirements intended to protect first responders in the event of a fire. The bill failed in a Senate committee by one vote.

Education

At-Risk Student Achievement Program created

HB 1013 (Dillard) establishes the At-Risk Student Achievement Program (ASAP). The bill is aimed at ensuring that schools have enough resources to help at-risk students pass the Standards of Learning (SOL) tests.

The program, if funded, would provide grants to public school divisions to implement programs designed to (i) improve the academic achievement of at-risk public school students on the SOL assessments; (ii) decrease the dropout rate among at-risk public school students; and (iii) increase the number of such students obtaining the advanced studies diploma.

Unfortunately, the legislation currently is not funded, but it nonetheless acknowledges that localities require additional assistance to ensure that at-risk students pass the SOLs. Del. Jim Dillard introduced the legislation at the request of VML and the Virginia Association of Counties.

School corrective plans

HB 1294 (Reid) establishes a process whereby the State Board of Education (BOE) can require school divisions to establish corrective plans to ensure that schools reach full accreditation status. Under HB 1294, if the Board of Education finds through a school academic review that schools are not obtaining full accreditation because the division has failed to implement the SOQ, the BOE can require the division to submit a corrective action plan.

The BOE also is authorized to pursue court enforcement of the development or implementation of the corrective action plans. Currently, 107 of 132 divisions have one or more schools that have not been fully accredited, and could therefore be subject to review, although the BOE is not required to undertake the process in all cases. The stated purpose of the legislation is to force school divisions that are refusing to take action to meet the Standards of Quality to do so. Local officials justifiably may feel that similar legislation requiring the state to establish corrective action plans to meet the SOQ would be equally useful, but the legislation does not address this issue.

SOQ revision enacted

HB 1014 (Dillard) and SB 479 (Potts) incorporate the revisions to the Standards of Quality proposed last summer by the state Board of Education. The bills add more than 12,000 positions to those funded by the state through the SOQ. This increases required state and local spending on education. Most localities currently meet these standards, and would therefore start receiving state contributions for positions that the localities are already funding.

These bills, which are the first comprehensive revision of the SOQ since the late 1980s, received remarkably little scrutiny. The legislation includes an enactment clause, which holds that any revision that costs more state money does not become effective unless funding is provided through the Appropriations Act.

The bills (i) increase from one half-time to one full-time principal in elementary schools with fewer than 300 students; (ii) provide one full-time assistant principal for each 400 students in each school; (iii) require five elementary resource positions per 1,000 students in kindergarten

through grade five for art, music, and physical education; (iv) lower the pupil-teacher ratio from 25:1 to 21:1 in middle and high schools; (v) reduce the required speech pathologist caseload from 68 to 60 students; (vi) require one full-time reading specialist for each 1,000 students in average daily membership; (vii) require two technology support positions per 1,000 students in kindergarten through grade 12 division-wide; and (viii) modify the current funding mechanism for remediation. The budget adopted during the special session funded the resource teachers, the lower pupil-teacher ratio, and the technology positions.

Human Services

CSA & foster care

HB 527 (Hogan) adds the chair of the state and local advisory team (SLAT) to the State Executive Council for Comprehensive Services for At-Risk Youth and Families. The state code requires the SLAT chair to be a representative of local government, including school divisions. The bill also adds a representative from the Department of Medical Assistance Services to the state and local advisory team.

HB 598 (Dudley) establishes that the cost of services for children placed by a juvenile court in a community or facility-based treatment program (such as post-dispositional services) can be paid for out of the non-mandated state pool of funds under CSA. State law already includes these children in the target population for CSA pool funds, but they are not part of the mandated population, either under current law or as a result of HB 598. Judges already can and do order post-dispositional services; currently these services are paid with 100 percent local funds. The bill will mean that these services could be paid for with non-mandated state pool funds if the funding is available but the bill does not require local governments to exceed their state pool funds for non-mandated children. The pool of funds for non-mandated children can be tapped to pay for post-dispositional services as long as funds are available.

HB 1047 (Nixon) clarifies the financial and legal responsibilities for a narrowly drawn group of special education students in the custody of a local social services agency who are placed, by that agency, in a group home in another jurisdiction. Basically the bill requires that if the placing agency is responsible for preparing the student's individualized education program (IEP), and private school placement is appropriate under the IEP, the placing agency retains financial and legal responsibility for special education services until the student reaches the age of 21 or is no longer eligible for the services. The students affected by the legislation are those 18 through 21 years of age who are school-aged children with disabilities — that is, are part of the mandated population under CSA. The legal and financial responsibility is retained by the placing jurisdiction unless it transfers to the other jurisdiction any Medicaid waiver or other services that the student receives.

HB 1109 (Moran) gives local departments of social services statutory authorization to provide independent living services to persons between 18 and 21 years of age in order to help them transition from foster care to self-sufficiency. There is no state or federal law against providing such services; this bill codifies the existing policy of allowing local departments to do so, if they choose. It also adds the provision that children's residential facilities may offer independent living services to persons between 18 and 21 years of age who are transitioning out of foster care.

SB 78 (Miller) creates a definition of kinship care as the full-time care, nurturing, and protection of children by relatives. The bill requires a local board of social services to seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interest.

CSA bill carried over letter study

HB 620 (Carrico) seeks to limit the growth in local expenditures in the Comprehensive Services Act program to no more than 25 percent a year. The House Committee on Health, Welfare and Institutions carried over the bill and sent a letter to the Virginia Commission on Youth about the potential of studying the issue before the 2005 session.

Adult and child protective services

HB 420 (Watts) and SB 429 (Wagner) enable local social services departments to develop multidisciplinary teams to provide consultation to the local department during the investigation of selected cases involving child abuse or neglect and to make recommendations regarding the prosecution of these cases. The teams may include members of the medical, mental health, legal and law-enforcement professions, including the attorney for the Commonwealth or his designee, a local child-protective services representative, and the guardian ad litem or other court-appointed advocate for the child. The bill also contains provisions regarding the confidentiality of information exchanged during such consultation.

HB 952 (Ebbin) and SB 318 (Howell) substantially revise existing adult protective services laws, including reporting and investigation procedures. Local departments of social services must initiate investigations of suspected adult abuse, neglect or exploitation within 24 hours of receiving a valid report, and they must notify the appropriate law-enforcement agency of reports involving 1) sexual abuse, serious bodily injury or disease believed to be the result of abuse or neglect, or 2) criminal activity involving abuse or neglect that place the adult in imminent danger of death or serious bodily harm. If denied access to a suspected victim, local departments may seek a court order to gain access to the person. The legislature accepted gubernatorial amendments to SB 318 to provide that criminal investigative reports received from law-enforcement agencies by the agency investigating an APS case shall not be further disseminated by the investigating agency nor subject to public disclosure.

The bill adds guardians, conservators and emergency medical services personnel to the list of persons who, acting in their official capacities, are mandated to report suspected cases of adult abuse, neglect or exploitation. Mandated reporters must report such matters to local departments or to the hotline immediately, and employers of mandated reporters must notify them of this requirement upon hiring. The bill adds employees of accounting firms to the financial personnel listed under the voluntary reporter provisions.

The bill outlines penalties for anyone 14 years of age or older who makes a false report. The bill also increases the initial time period in which involuntary adult protective services are offered.

Enactment clauses require (i) the Department of Social Services to develop a plan to educate newly mandated reporters on adult abuse, neglect and exploitation, and the delay of penalty provisions on newly mandated reporters until the delivery of such training; and (ii) the Secretary to establish procedures and cost estimates for the operation of adult fatality review teams to review suspicious deaths of vulnerable adults.

HB 1135 (McDonnell) and SB 584 (Bolling) require the state Child Protective Services Unit in the Department of Social Services to develop training standards on the legal duties of child protective services workers. The purpose is to protect the constitutional and statutory rights and safety of children and families from the initial time of contact during investigation through treatment. The local social services department must advise a person subject to a child abuse or neglect investigation of the complaints or allegations made against the person, in a manner consistent with laws protecting the rights of the person making the report or complaint. The notice has to be given at the initial time of contact with the person.

Notification and comment regarding relocation of health facilities

HB 391(Amundson) requires the Commissioner of Health to consider the effects on accessibility of any proposed relocation of an existing medical service or facility (such as a hospital). The bill also requires the appropriate health planning agency to notify the affected local governing bodies in the planning district where the project is proposed to be located (unlike SB 86 below, it does not specify that the notification occur before the required public hearing). The legislation requires the health-planning agency to consider comments from the relevant local governing bodies and all other public comments in making its decision, and stipulates that such comments must be part of the record provided to the Department of Health.

SB 86 (Puller) is similar to HB 391, except that it requires the health-planning agency to notify local governing bodies in the planning district prior to the required public hearing on relevant applications.

Location of methadone clinics

SB 607 (Wampler) and HB 745 (O. Ware) prohibit the initial licensure of some methadone clinics that are located near day care centers and public schools, and require notification of local jurisdictions in which clinics are to be located. Methadone clinics provide treatment for people with opiate addiction through the use of methadone (which is a controlled substance) or other opioid replacement. Under current law, providers of these clinics must apply to the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services for a license to operate. Under the bills, the commissioner will be prohibited from granting an initial license for clinics located within a one-half mile of a public or private day care center or public or private K-12 school, except when the service is provided by a licensed hospital or by a state-owned or operated facility.

Also, the bills require the state to notify local agencies about proposals and applications for licensure. (The location restriction will not apply to the jurisdictions located in Planning District 8 (Northern Virginia) although the notification provisions will apply.) Under the notification process, the commissioner has 15 days in which to notify the governing body and community services board in the affected jurisdiction of the receipt of a proposal or application to obtain initial licensure. The local governing body and the community services board then must submit comments to the commissioner within 30 days of the date of the notice. The comments must include notification of compliance with the location restrictions and any relevant local ordinances.

The bills do not affect any applicant for license who has obtained a certificate of occupancy under the law and regulations in effect on Jan. 1, 2004. Further, no existing licensed provider will be required to comply with these provisions in any city or county in which it is currently providing treatment. A second enactment clause provides that the commissioner must not grant or issue any initial license for a methadone clinic after the date of the enactment of this provision, unless the provider is in compliance with this act.

Transportation

Photo-red measures stopped

Once again the House Committee of Militia and Police prevented passage of any measures granting localities the authority to institute and operate photo-red technology. The technology permits law enforcement agencies to use unmanned cameras to capture vehicles running red lights. A handful of localities currently use the technology, but their authority expires June 30, 2005. Several House and Senate bills were defeated in the House committee, including legislation to eliminate the sunset provision and expand the authority on a statewide basis.

Other transportation bills enacted

As part of a broader effort by the Virginia Department of Transportation to account for statewide maintenance expenditures, SB 563 (Stosch) establishes a new reporting requirement for localities receiving street maintenance payments from the state. VDOT has agreed to establish a local government advisory group to help to institute the requirements of the legislation.

HB 899 (Wardrup) governs how local governing bodies may enact ordinances regulating the use of golf carts on local streets.

Steel plates measured vetoed

Governor Warner vetoed HB 408 (Welch), which would have provided that the state will determine the best practices for the use of steel plates in connection with a temporary or permanent repair to the roadway of any highway. The bill would have required that prior to July 15, 2005, anyone, including municipalities, using steel plates must apply a reflective substance to the plate in order to improve visibility to oncoming traffic. VML did not seek the veto.

Studies point way to issues for 2005

Issues ranging from local hunting ordinances to the Virginia Public Records Act will be studied by the legislature and state agencies in the months leading up to the 2005 session. Studies of top interest to local government officials include:

• A one-year legislative committee study of the Virginia Retirement System — HJR 34 (Putney), covering (i) the benefit structure; (ii) funding, including amortization schedules, level and adequacy of funded ratios, and blending of contribution rates between retirement systems; (iii) improvements in the system; and (iv) comparison of benefits offered in to those provided by other states and the federal government to public safety officers who suffer severe and permanent disabilities as a result of catastrophic personal injuries incurred in the line of duty.

• A two-year legislative committee study of state assistance for K-12 school infrastructure — HJR 105 (Drake), to include (i) infrastructure needs of schools; (ii) availability of local funding; (iii) potential public-private partnerships; (iv) the appropriate role of the state in school construction; (v) state debt capacity available for school construction; and (vi) structure of bonds and distribution of bond proceeds for school infrastructure.

• A continuation of the Growth and Economic Development Commission — HJR 170 (Hall), with a focus on the effects of conditional zoning, particularly cash proffers, on residential development patterns, availability and cost of housing, and construction and improvements of infrastructure. The commission also is to continue its study of authority for localities to enact adequate public facilities ordinances.

• A continuation of the Housing Study Commission's study of community revitalization opportunities; housing opportunities for rural areas; housing opportunities for low-income persons, persons with special needs, minorities and new immigrants; homeownership trends, barriers, and opportunities; and the need for local understanding and accommodation of the housing needs of the entire spectrum of residents of the state — HJR 152 (Drake). The Housing Study Commission also will examine the impact of blighted or deteriorated properties in older urban communities — SJR 95 (Lucas).

• A one-year legislative committee to study issues regarding the incorporation of churches — SJR 89 (Mims). Virginia is one of only two states that prohibit the incorporation of churches; a federal court has held that this constitutional provision violates the federal First Amendment. The study committee will examine the incorporation issue as well as the current statutory restrictions on the amount of real property a church may hold.

• A one-year legislative committee to study the effect on the economy of the state collection of remote sales taxes — HJR 176 (Hugo). The committee is to determine the amount of revenue the state would generate and the effect on small businesses in the state if taxes on remote sales were collected. In addition, the committee is to examine if the lack of a requirement to collect remote sales can be used as a marketing tool.